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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,584	12/03/2003	Toshifumi Otsubo	2038-311	3446

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LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria, VA 22314

EXAMINER	
AFTERGUT, JEFF H	

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/725,584	OTSUBO, TOSHIFUMI	
	Examiner	Art Unit	
	Jeff H. Aftergut	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-5 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 12-3-03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Japanese Patent 11-140706 or Japanese Patent 11-140705 further taken with either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 and Tharpe.

Either one of Japanese Patent '705 or '706 suggested that it was known at the time the invention was made to form a disposable undergarment wherein one formed the undergarment by feeding a first and a second web of continuous web material with waist elastics sandwiched there between the direction of article manufacture. The references both suggested that a topsheet 2' and a backsheet 3' were provided for this purpose. In both references the backsheet 3' was of a width larger than the width of the topsheet 2'. The references both suggested that disposed between the topsheet and the backsheet one skilled in the art would have disposed waist elastics 51' on either side edge of the webs and covered by both webs to form a composite sandwich assembly. Both references additionally suggested that the edges of the backsheet 3' at 3a' were folded over the waist elastics and the topsheet 2' and joined to the same, see Figure 3 of both references. The references both suggested that a leghole cut out was formed in the composite web assembly and that the composite web assembly was folded over in

the cross machine direction followed by cutting and seaming to form individual undergarment assemblies. The references both suggested that individual pad assemblies 4 were disposed between the topsheet 2' and the backsheet 3'. The references also suggested that the folding over of the topsheet 3' did not cover the pad assemblies 4 but was disposed adjacent the edge of the same as depicted in Figure 3 of each. The references failed to teach that the processing would have included the introduction of individual pad assemblies rather than the disposing of pad assemblies between the topsheet and backsheet as depicted. However, it was well known in the art at the time the invention was made to associate a preformed pad assembly with the web assembly which formed the exterior shell of the undergarment as well as the waistband of the same as evidenced by either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639.

The references to either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 suggested that it was known at the time the invention was made to apply preformed pad assemblies upon a web which contained the elastics for the waistband as evid3enced by Figure 3 of each of the references. More specifically, each reference suggested that an absorbent body 17 which included an absorbent pad material 17 disposed between a topsheet 15 and a backsheet 16 was formed and that the individual panel assemblies so formed were fed to a turning device 31 where the pad assemblies were turned and then disposed upon and secured to a web 42 which has had the waistband elastics 12 preapplied thereto. In such a manner the pads were capable of being preformed prior to the application of the same to the web carrying the

waistband elastics thereon. The ordinary artisan would have understood that such an arrangement would have provided one with greater flexibility in terms of formation of the absorbent cores in the undergarment. Like Japanese Patent 11-140706 or Japanese Patent 11-140705, the references to either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 suggested that after formation of the web assembly one skilled in the art would have severed the web to form the leg holes for the undergarment followed by folding the assembly over and cut seaming the individual undergarments from the web. The references to either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 additionally suggested that one skilled in the art would have folded the web 42 over the edge of the waistband elastics 12 as depicted in Figure 3 of each reference. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide individual pads of material for the absorbent cores which were disposed upon a web which formed the undergarment as suggested by either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 in the process of making the undergarments which included the folded over waistband sections as suggested by either one of Japanese Patent 11-140706 or Japanese Patent 11-140705. It should be noted that in either one of Japanese Patent 11-140706 or Japanese Patent 11-140705 the folded over section does not extend completely over both portions of elastic in the waist region (51' and 61') but rather extended over only portions 51'.

Tharpe suggested that one skilled in the art at the time the invention was made would have incorporated a waistband which included two webs wherein one web was of

a greater width than the other and the wider web was folded over in the region where the elastics were disposed in order to present a waistband which was more comfortable to the wearer. The applicant is more specifically referred to Figures 7-10 and column 6, line 57-column 7, line 6. Clearly, to provide the width of the web such that it was capable of complete coverage over the waist elastics would have been within the purview of the ordinary artisan as evidenced by Tharpe in order to inhibit skin irritation in the skin of the wearer of the assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the web in either one of Japanese Patent 11-140706 or Japanese Patent 11-140705 with an adequate width in order to completely cover the waistband elastics as such would have facilitated a more comfortable fit to the wearer as suggested by Tharpe in the process of making a disposable undergarment wherein a preformed absorbent assembly was joined to the web forming the exterior of the undergarment (as opposed to integrating the absorbent within the web assembly) as such would have allowed for greater manufacturing flexibility in the making of the absorbent cores as suggested by either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639.

3. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Glaug et al.

The references as set forth above suggested the overall operation for joining the waist elastics and covering the same with a portion of the sheet material which made up the pant and which was of a width suitable to cover the same. It should be noted that formation of a panel having a topsheet and a backsheet for the absorbent panels was

suggested by either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639. The prior art did suggest that one skilled in the art would have attached the over folded portion of the web together to cover the waist elastics therein, however it failed to expressly recite the specific pattern of adhesive wherein between the absorbent cores one would have applied additional adhesive while in the zones along the exterior edge of the wider sheet one applied a continuous pattern of the adhesive in order to join the overturned edge. It should be noted, however, that in the manufacture of a disposable undergarment one skilled in the art would have envisioned such a pattern of adhesive material as evidenced by Glaug et al. More specifically, Glaug et al suggested that it was known to apply discrete adhesive zones 156 as well as a continuous pattern 154 of adhesive with an adhesive application device 152 prior to folding over the edge of the web 50 to capture the waist elastic 140 therein. Additionally another pattern 160 was possible which likewise had discrete adhesive portions 162 as well as a continuous adhesive portion therein. Applicant is referred to column 36, line 66-column 37, line 30 for more details of the patterns provided. It should be noted that application of the adhesive either to the wide web or the narrower web was within the purview of the ordinary artisan and that one would have had to apply the adhesive to either one of the same in order to develop a bond when the wide was folded over. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a pattern of adhesive for joining the folded over portion wherein a discontinuous portion of the pattern coincided with the spaces between the absorbent cores as suggested by Glaug et al in the process of making a disposable undergarment

as set forth above in paragraph 2 wherein the pattern of adhesive would have ensured that the folded over portion was adequately secured to the undergarment to adequately cover the waist elastics therein.

With respect to claims 2 and 3, note that as addressed above the adhesive would have been applied to either the portion of the web being folded over or the portion of the web which was to receive the over fold to secure the same and the disposing of the adhesive at either local would have been within the purview of the ordinary artisan. Regarding claim 4, note that the reference to Glaug et al suggested the placement of the discontinuous pattern in the manner recited. Regarding claim 5 note that the references to either one of Japanese Patent 2001-157693 or Japanese Patent 2002-330639 suggested the formation of the absorbent bodies with a topsheet and a backsheet.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
January 23, 2006